REMARKS

Claims 1-4, 7-16 and 18-19 are currently pending in the instant application.

Claim Amendments

While the applicant disagrees with the basis for certain rejections made in the Official Action, claim 3 is nonetheless cancelled and claims 1, 4, 8-10, 14-15 and 18-19 are amended to better claim the applicant's invention and to expedite prosecution. No new matter has been added due to these amendments and support for these amendments can be found throughout the applicant's specification and figures.

Claim Rejections under 35 U.S.C. §102(b)

The Patent Office has reiterated their rejections of claims 1-4, 7-16 and 18-19 under 35 U.S.C. §102(b) as being anticipated by U.S. Patent No. 7,263,632 to Ritz et al. (hereinafter "Ritz"). The applicant respectfully disagrees with these rejections and request favorable reconsideration in light of the amendments and discussion hereinafter.

Regarding independent claims 1, 14 and 19, the Patent Office asserts that Ritz discloses that "the monitoring service applies policy to filter which events are propagated up to invoke diagnostic module for root cause determination" and that this equates to an operating system that "is capable of dynamically identifying root cause determination." The applicant again points out that application exception functions are typically integrated into the application language (i.e. .NET, Java) by the application developer and are configured such that when a ***predefined application event*** occurs a trigger in the application language is activated causing an application exception to be generated. This is clearly not equivalent to dynamically determining the occurrence of an exception. Ritz clearly includes application exception triggers that are predefined by the application developers and are thus integrated into the application software. As such, Ritz is not capable of dynamically determining the occurrence of or responding to an exception event. In fact, when a ***predefined*** application event occurs in Ritz, Ritz generates a ***predefined*** application exception and logs the application exception into an event log, where the exceptions are then processed in a ***predefined*** manner. ***And because the log is***

not accessible to the management system software, the information in the exception log is not changeable.

This is completely different from the applicant's invention which addresses a different issue than Ritz that is the issue of where a software exception event ***is not anticipated*** by the application developer and is thus ***not integrated*** into the software application as a predefined application event. Ritz is not capable of this and any exception event that is not predefined would be unrecognized and no action would be taken. Accordingly, it is clear that Ritz does not and cannot dynamically detect an exception event.

The applicant further points out that Ritz does not identify or distinguish between critical exceptions and other exceptions, not does Ritz determine the type of critical exception and process the critical exception responsive to the type of critical exception. For example, Ritz clearly does not determine whether an exception is a primary exception or a derived exception and in fact makes no mention of critical exceptions, primary exceptions or derived exceptions. In rejecting these claims, the Patent Office has erroneously read these elements into the disclosure of Ritz.

In light of the above discussion, it is clear that Ritz does not disclose or teach each and every element of applicant's amended independent claims 1, 14 and 19. Accordingly, for at least the foregoing reasons, the applicant respectfully submits that amended independent claims 1, 14 and 19 patentably define over Ritz. Additionally, as claims 2, 4, 7-13 depend from amended independent claim 1 and claims 15-16 depend from amended independent claim 14, they too patentably define over Ritz for at least the same reasons.

Nevertheless, the applicant wishes to point out the following additional reasons why certain dependent claims are not anticipated and are thus patentably distinguishable over Ritz.

Regarding claims 4, 8-12, 15 and 18, as discussed hereinabove Ritz clearly makes no mention or reference to distinquishing between primary and derived events and critical and non-critical events, let alone identifying and distinguishing between primary and derived critical events. Again, the Office directs the applicant's attention to the Abstract of Ritz as support for their rejection and asserts that "[I]t is understood that a new event

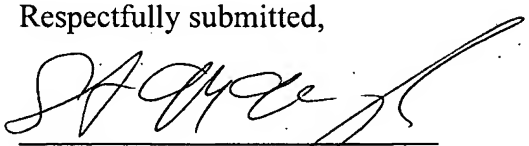
logged would be a primary critical exception" and "[I]f a similar log exists, it would be a derived critical exception event." The applicant re-asserts that Ritz makes no such recitation, suggestion or teaching and believes that he Office is erroneously reading missing elements into the disclosure of Ritz. It is well established that missing elements may not be supplied by the knowledge of one skilled in the art or by the disclosure of another reference.[1] Accordingly, claims 4, 8-12, 15 and 18 are clearly not anticipated by Ritz in their own right.

For the foregoing reasons, the applicant respectfully submits that Claims 1-2, 4, 7-16 and 18-19 are not anticipated by and thus are patentably distinguishable over Ritz. Accordingly, favorable reconsideration and withdrawal of these rejections is respectfully requested.

CONCLUSION

For all the foregoing reasons, the applicant respectfully submits that the present application is now in condition for allowance. Additionally, the applicant submits herewith a request for a one (1) month extension of time along with the required surcharge extending the time to reply until April 17, 2010. However, as April 17, 2010 falls on a Saturday, this response is being timely filed on Monday April 19, 2010.

Respectfully submitted,



Steven M. McHugh, Esq.
USPTO Reg. No. 47,784
Attorney for the Applicant

1 *Titanium Metals Corp. v. Banner, 778 F.2d 775, 780, 227 U.S.P.Q. 773, 777 (Fed. Cir. 1985)*